

1 ANTHONY S. PETRU, Esq., CA State Bar No. 91399  
2 petru@hmnlaw.com  
3 GAVIN S. BARNEY Esq., CA State Bar No. 321880  
4 barney@hmnlaw.com  
5 HILDEBRAND, McLEOD & NELSON, LLP  
6 Westlake Building  
7 350 Frank H. Ogawa Plaza, Fourth Floor  
8 Oakland, CA 94612-2006  
9 petru@hmnlaw.com  
10 TEL: (510) 451-6732  
11 FAX: (510) 465-7023

12 NICHOLS KASTER, PLLP  
13 JAMES H. KASTER, Esq., CA State Bar No. 248949  
14 kaster@nka.com  
15 LUCAS J. KASTER, Esq., CA State Bar No. 291102  
16 lkaster@nka.com  
17 80 South Eighth Street  
18 4600 IDS Center  
19 Minneapolis, Minnesota 55402-2242  
20 TEL: (612) 256-3200  
21 FAX: (612) 338-4878

22 Attorneys for Plaintiffs  
23 JUSTIN DONAHUE; JASON CAMPBELL; and JACOB GOSS

24 **UNITED STATES DISTRICT COURT**

25 **NORTHERN DISTRICT OF CALIFORNIA - OAKLAND DIVISION**

26 JUSTIN DONAHUE; JASON CAMPBELL;  
and JACOB GOSS,

Plaintiff,

v.

UNION PACIFIC RAILROAD COMPANY,

Defendant.

Case No.

COMPLAINT FOR DAMAGES

JURY TRIAL DEMANDED

1           Plaintiffs Justin Donahue, Jason Campbell, and Jacob Goss (collectively,  
2 “Plaintiffs”) file this Complaint against Defendant Union Pacific Railroad Co. (“Union Pacific”  
3 or “Defendant”) for damages resulting from its violation of the Americans with Disabilities Act,  
4 42 U.S.C § 12101 *et seq.*, as amended (“ADA”).  
5

6                                   **PRELIMINARY STATEMENT**

7           1.       Union Pacific enforces a company-wide fitness-for-duty program (“Fitness-for-  
8 Duty”), through which the company imposes a blanket policy automatically removing from  
9 service employees who disclose or who Union Pacific suspects have certain health conditions.  
10 Union Pacific then subjects employees whom it removes from service to a Fitness-for-Duty  
11 evaluation. Union Pacific applies this policy regardless of whether the employee has been safely  
12 performing the essential functions of their job. Union Pacific evaluations do not assess whether  
13 an employee is capable of safely or effectively performing their work.  
14

15           2.       Employees responsible for train movement must be certified by the Federal  
16 Railroad Administration (“FRA”). The FRA allows railroads to certify employees through one  
17 of twelve color-vision examinations, including the *Ishihara* test, which consists of a number of  
18 colored plates, each containing a circle of dots appearing randomized in color and size, that form  
19 a number or shape clearly visible to those without color-vision deficiency, and invisible, or  
20 difficult to see, to those who are color-blind or who have color-vision deficiency.<sup>1</sup> Because  
21 employees who have color-vision deficiency may nevertheless be able to distinguish between  
22

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23           <sup>1</sup> Color-vision deficiency is the inability to distinguish certain color shades under normal lighting condition:  
24 whereas, color blindness is the inability to see colors. Color-vision deficiency is relatively common, *e.g.*, one in  
25 twelve men suffer from red-green color vision deficiency. And unlike color blindness, color-vision deficiency does  
26 not prevent its sufferers from performing tasks that require them to distinguish between colors.

1 colors, the FRA permits them to be certified through a color-vision field test (“CVFT”). Even  
2 employees who the employer deems have not met the employer’s requirements to pass a CVFT  
3 may be certified and the employee allowed to work when there is reason to believe that they can  
4 perform their job’s essential functions.  
5

6 3. Because employees responsible for train movement must be certified, Union  
7 Pacific’s Fitness-for-Duty program includes color-vision testing. In or around April of 2016,  
8 Union Pacific replaced its CVFT with a new test – the “Light Cannon” test. The old CVFT used  
9 existing train signal masts with actual wayside lights and lenses in the field or railyards; whereas  
10 the Light Cannon test uses a mobile light device that Union Pacific developed in-house. The  
11 Light Cannon test does not replicate what employees see in the field, and yet the majority of  
12 those who have been subjected to it fail, despite having successfully passed the old CVFT and  
13 performed their jobs without missing a signal for years or even decades.  
14

15 4. In February 2016, several Union Pacific employees commenced a class action  
16 disability discrimination lawsuit against Union Pacific, alleging that Union Pacific’s Fitness-for-  
17 Duty policies and practices constituted a pattern and practice of discrimination under the ADA.  
18 *See Quinton Harris et. al. v. Union Pacific Railroad Company*, Case No. 8:16-cv-381 (D. Neb.).  
19 The *Harris*-plaintiff’s allegations “clearly encompass vision testing as it is included in the FFD  
20 program.” *Harris*, 2019 U.S. Dist. LEXIS 16113, at \*10-11 (D. Neb. Feb 1, 2019).  
21

22 5. Plaintiffs are victims of the same discriminatory Fitness-for-Duty policies and  
23 practices alleged in *Harris*. Despite each being qualified and safely performing his job without  
24 incident, Plaintiffs were removed from service for a Fitness-for-Duty evaluation and excluded  
25 from work at Union Pacific on the basis of their real or perceived disabilities, which regards their  
26

1 ability to see color. Plaintiffs were putative class members in *Harris*, and now timely bring this  
2 action.

### 3 JURISDICTION AND VENUE

4  
5 6. This action arises under the Federal Americans with Disabilities Act, 42 U.S.C.  
6 §§ 12101 *et seq.* As such, this Court has jurisdiction under 28 U.S.C. § 1331.

7 7. Venue is proper under 28 U.S.C. § 1391(b)(2), because a substantial part of the  
8 events that give rise to this lawsuit occurred in the Northern District of California.

9 8. Venue is proper under 42 U.S.C. § 2000e-5(f)(3) because a substantial part of the  
10 alleged unlawful practices was committed by Union Pacific in the Northern District of California  
11 and because, but for the unlawful practices of Union Pacific, at least one of the Plaintiffs would  
12 have worked in the Northern District of California.

### 13 THE PARTIES

14 9. Plaintiffs are individuals with disabilities, as that term is defined under the ADA,  
15 who, at all times material to this lawsuit, were employed by Union Pacific in the State of  
16 California.

17  
18 10. Plaintiff Justin Donahue (“Donahue”) resides in Milpitas, CA.

19 11. Plaintiff Jason Campbell (“Campbell”) resides in Shasta Lake, CA.

20 12. Plaintiff Jacob Goss (“Goss”) resides in Riverside, CA.

21 13. Union Pacific is a railroad carrier engaged in interstate commerce.

### 22 PROCEDURAL PREREQUISITES AND TIMELY FILING

23 14. On February 19, 2016, counsel for Plaintiffs, on behalf of six named plaintiffs and  
24 those similarly situated, filed a First Amended Complaint against Union Pacific in the Western

1 District of Washington, alleging disability discrimination in violation of the ADA, along with  
2 state law. The case was thereafter transferred to the District of Nebraska. *See Quinton Harris et*  
3 *al. v. Union Pacific Railroad Company*, Case No. 8:16-cv-381 (D. Neb.).

4  
5 15. Plaintiffs were each putative class members in the *Harris* case and Plaintiffs’  
6 claims under the ADA were subject to tolling during the pendency of litigating the class-wide  
7 claims, pursuant to the Supreme Court’s ruling in *Crown, Cork & Seal Co., Inc. v. Parker*, 462  
8 U.S. 345 (1983).

9 16. The *Harris* court certified the class action in February 2019; however, the Eighth  
10 Circuit Court of Appeals reversed the certification decision on March 24, 2020.

11 17. As a result of *Crown Cork* tolling, Plaintiffs had three hundred (300) days from  
12 the date of the Eighth Circuit’s order to file a Charge of Discrimination with the Equal  
13 Employment Opportunity Commission, “EEOC.” Shortly after the Eighth Circuit issued its order  
14 reversing class certification, the parties entered into a tolling agreement, extending the time for  
15 Plaintiffs and other putative class members to file EEOC charges by an additional sixty (60) days.

16  
17 18. Donahue timely filed a Charge of Discrimination with the EEOC on April 24,  
18 2020. The EEOC issued a determination on November 17, 2020, requiring that Donahue file a  
19 complaint in court by February 15, 2021.

20 19. Campbell timely filed a Charge of Discrimination with the EEOC on April 10,  
21 2020. The EEOC issued a determination on November 18, 2020, requiring that Campbell file a  
22 complaint in court by February 16, 2021.

23 20. Goss timely filed a Charge of Discrimination with the EEOC on December 10,  
24 2020. The EEOC issued a determination on December 18, 2020, requiring that Goss file a

1 complaint in court by March 18, 2020.

2 21. Plaintiffs timely bring the present action.

3 **FACTUAL ALLEGATIONS**

4 ***UNION PACIFIC'S FITNESS-FOR-DUTY POLICIES AND PRACTICES***

5 22. Union Pacific's Medical Rules outline its Fitness-for-Duty program. The rules  
6 require that certain employees, including all employees in Operating Department field positions  
7 (such as Transportation, Engineering Services and Mechanical positions), undergo a Fitness-for-  
8 Duty evaluation where they report or Union Pacific suspects that they have one of an enumerated  
9 list of medical and/or physical conditions.  
10

11 23. When a Fitness-for-Duty evaluation is triggered, the employee is removed from  
12 work without pay while Union Pacific Health and Medical Services completes the evaluation and  
13 until Union Pacific informs the employee's supervisor that the employee has been cleared to  
14 return to work.

15 24. Union Pacific Fitness-for-Duty includes color-vision testing. Suspected color-  
16 vision deficiency triggers a Fitness-for-Duty evaluation.  
17

18 25. FRA regulation requires that all locomotive engineers and conductors undergo  
19 periodic certification. Under the fitness requirement, an engineer or conductor must have the  
20 ability to recognize and distinguish between the colors of railroad signals, as demonstrated  
21 through one of twelve forms of color-vision examination. Where an employee fails one of the  
22 listed examinations, FRA regulations state that an engineer or conductor may nonetheless be  
23 certified through a CVFT or where there is otherwise reason to believe that they can recognize  
24 and distinguish between colors of railroad signals.

1           26.     Union Pacific utilizes the 14-Plate Ishihara test to test for color-vision deficiency  
2 for FRA certification. When an employee fails the Ishihara test, Union Pacific subjects the  
3 employee, as part of the Fitness-for-Duty process, to a CVFT implemented in or around April  
4 2016, called the Light Cannon test.

5  
6           27.     The Light Cannon Test does not simulate real world conditions and does not  
7 assess the employee's ability to recognize and distinguish between colors of railroad signals.

8           28.     As a result of the conduct described above, Union Pacific employees who have  
9 never had a problem performing the essential functions of their jobs have been removed from  
10 work without pay either for an extended period or indefinitely.

11                               ***PLAINTIFF JUSTIN DONAHUE***

12           29.     Donahue was hired by Union Pacific in California and worked as a conductor and  
13 Remote-Control Operator ("RCO") trainman from January 28, 2006, until approximately June 7,  
14 2017, when he was removed from service.

15           30.     As a conductor and RCO trainman, Donahue's job entailed reading and  
16 interpreting multicolored railroad traffic signal lights on signal masts. Donahue safely worked as  
17 a conductor and RCO trainman for over eleven years without misreading a signal.

18  
19           31.     In 2006 Donahue underwent an Ishihara test as a part of his post-hiring physical  
20 examination. He was also then administered an alternate clinical test and, upon passage, was  
21 allowed to work as a conductor.

22           32.     Between 2006 and 2017, Donahue took the Ishihara test approximately six times  
23 as part of FRA Conductor certification. He passed the Ishihara test during several recertifications.  
24 On each occasion that he failed the Ishihara test, Donahue took and passed an alternate test. On

1 one occasion he passed a previous Union Pacific CVFT in which he read and relayed a series of  
2 signals from a real railroad signal mast to assess his ability to read and interpret signals in the  
3 field.  
4

5 33. On or about May 3, 2017, Donahue went to recertify as a conductor. He took and  
6 failed the Ishihara Test. On this occasion his test results triggered a Fitness-for-Duty evaluation  
7 and Union Pacific removed Donahue from work.

8 34. On May 22, 2017, as part of the Fitness-for-Duty process, Union Pacific  
9 administered the Light Cannon test. Donahue missed two lights out of twenty on the test, which  
10 Union Pacific considered a failure.

11 35. On May 24, 2018, Union Pacific determined, based on his performance on the  
12 Light Cannon test, that Donahue could not identify colored train signals reliably and accurately  
13 and issued him permanent work restrictions.

14 36. On May 24, 2017, Donahue took and passed an Ishihara color vision test at  
15 Milpitas Family Eyecare, administered by optometrists David Schymeinsky, O.D., and George  
16 Contos, O.D. Donahue's doctors reported that he has no color vision defect.

17 37. On or around June 6, 2017, Union Pacific issued Donahue permanent work  
18 restrictions prohibiting him from working in any position requiring accurate identification of  
19 colored railroad wayside signals, including as a conductor or RCO trainman. Union Pacific  
20 claimed that these restrictions could not be accommodated.

21 38. On June 7, 2017, Donahue underwent a 14-plate Ishihara color vision test,  
22 administered by Optometrist Virginia Ko, O.D., of the Palo Alto Medical Foundation, Fremont  
23 Center. Donahue scored a 14 out of 14 on both eyes.  
24



1           39. On August 2, 2017, Donahue was examined by optometrist Wayne A. Verdon,  
2 O.D., Ph.D., Professor of Clinical Optometry at the University of California, Berkeley, School  
3 of Optometry. Dr. Verdon administered multiple color vision tests, including the Ishihara and the  
4 Farnsworth Lantern test. Dr. Verdon determined that Donahue has “clinically normal” color  
5 vision and that his condition “would not be expected to interfere with his color discrimination  
6 using real world stimuli.”

7  
8           40. Dr. Verdon’s office mailed the results of Donahue’s examination to Union Pacific  
9 Health and Medical Services and the Union Pacific Fitness-for-Duty Nurse on August 4, 2017.

10           41. In the time since removing him from service, Union Pacific has persisted in its  
11 refusal to allow Donahue to return to his job as a conductor/trainman. At all times, Donahue was  
12 capable of performing the essential functions of his job, and he remains able to perform them  
13 today.

14           42. To the extent that Donahue needed reasonable accommodation, Union Pacific  
15 failed to provide them, and failed to even engage in an interactive process regarding what  
16 accommodations were possible.

17  
18                           ***PLAINTIFF JASON CAMPBELL***

19           43. Campbell was hired by Union Pacific in California in 2003 and worked as a  
20 Conductor from about April 11, 2004, until approximately May 22, 2018, when he was removed  
21 from service.

22           44. Part of Campbell’s job as a conductor entailed reading and interpreting  
23 multicolored railroad traffic signal lights on signal masts. Campbell safely worked as a conductor  
24 for over twelve years without misreading a signal.

1           45.     In 2003, Campbell took and failed the Ishihara color vision test as part of his post-  
2 hiring physical examination. Campbell then took and passed an old Union Pacific CVFT in which  
3 Campbell read and relayed a series of signals from a real railroad signal mast to assess his ability  
4 to read and interpret signals in the field.  
5

6           46.     Between 2003 and 2016, Campbell took the Ishihara test approximately six times  
7 as part of his FRA Conductor certification. On each occasion he failed the Ishihara test but passed  
8 a previous CVFT.

9           47.     On April 20, 2018, Campbell went to recertify as a conductor. As usual, he took  
10 and failed the Ishihara Test. On this occasion his test results triggered a Fitness-for-Duty  
11 evaluation and Union Pacific removed Campbell from work.

12           48.     Campbell requested that Union Pacific allow him to retake the Ishihara Test with  
13 a color-tinted corrective lens, but Union Pacific refused.

14           49.     On May 21, 2018, as part of the Fitness-for-Duty process, Union Pacific  
15 administered the Light Cannon test. Union Pacific concluded that Campbell failed the Light  
16 Cannon test.  
17

18           50.     On May 22, 2018, Union Pacific informed Campbell that, based on his  
19 performance on the Light Cannon test, it had determined that he could not identify colored train  
20 signals reliably and accurately and issued him permanent work restrictions.

21           51.     On or around June 13, 2018, Campbell received written notification from James  
22 C. Rawlinson, Union Pacific General Superintendent, advising Campbell that his work  
23 restrictions could not be accommodated, and that he could not work in any position requiring  
24 accurate color signal recognition, including as a conductor.

1           52. In the time since, Union Pacific has persisted in its refusal to allow Campbell to  
2 return to his job as a conductor. At all times, Campbell was capable of performing the essential  
3 functions of his job, and he remains able to perform them today.

4           53. In order to find alternative work and to mitigate his damages, in or around August  
5 2018, Campbell was caused to resign his position as a Union Pacific conductor, relinquishing his  
6 trainman seniority, after which he reapplied with Union Pacific in the Maintenance of Way  
7 department. On or around August 6, 2018, Union Pacific hired Campbell as a Maintenance of  
8 Way worker. His current job functions include driving Union Pacific vehicles for which he  
9 maintains a commercial driver's license.

10           54. On October 15, 2019, Campbell was examined by Optometrist Nancy Ekelund,  
11 O.D., and underwent an Ishihara Test with the aid of a color-tinted corrective lens. Campbell  
12 passed the Ishihara Test with the lens.

13           55. To the extent that Campbell needed reasonable accommodation, Union Pacific  
14 failed to provide them, and failed to even engage in an interactive process regarding what  
15 accommodations were possible.

16  
17 ***PLAINTIFF JACOB GOSS***

18           56. Goss was hired by Union Pacific in California on July 17, 2003 and worked as  
19 either a conductor or a locomotive engineer from September 2003 until approximately May 2016,  
20 when he was removed from service.

21           57. Part of Goss' job entailed reading and interpreting multicolored railroad traffic  
22 signal lights on signal masts. Goss safely worked as a conductor and engineer for nearly thirteen  
23 years without misreading a signal.

1           58. In 2003, Goss took and failed the Ishihara test as part of his post-hiring physical  
2 examination. He was then administered an alternate clinical test by an optometrist and, upon  
3 passage, was allowed to work as a conductor.

4           59. In 2005, Goss took and failed the Ishihara test as part of his Engineering  
5 certification but was allowed to work as an Engineer after passing an alternate color vision test.

6           60. Between 2005 and 2016, Goss recertified approximately four times. On each  
7 occasion he failed the Ishihara test and was given a previous Union Pacific CVFT in which Goss  
8 read and relayed a series of signals from a real railroad signal mast to assess his ability to read  
9 and interpret signals in the field. Goss passed the old CVFT each time it was administered.

10           61. In May 2016, Goss went to recertify as an engineer. As usual, he took and failed  
11 the Ishihara Test. On this occasion his test results triggered a Fitness-for-Duty evaluation and  
12 Union Pacific removed Goss from work.

13           62. Soon thereafter, as part of the Fitness-for-Duty process, Union Pacific  
14 administered the Light Cannon test. Union Pacific concluded that Goss failed the Light Cannon  
15 test.

16           63. In May 2016, Union Pacific informed Goss that, based on his performance on the  
17 Light Cannon test, it had determined that he could not identify colored train signals reliably and  
18 accurately and issued him permanent work restrictions.

19           64. In the time since, Union Pacific has persisted in its refusal to allow Goss to return  
20 to his job as an engineer. At all times, Goss was capable of performing the essential functions of  
21 his job, and he remains able to perform them today.

22           65. To the extent that Goss needed reasonable accommodation, Union Pacific failed  
23

1 to provide them, and failed to even engage in an interactive process regarding what  
2 accommodations were possible.

3  
4 **CAUSES OF ACTION**

5 **COUNT I**  
6 ***VIOLATION OF THE ADA***  
7 ***DISABILITY DISCRIMINATION – DISPARATE TREATMENT***

8 66. Plaintiffs incorporate the foregoing paragraphs by reference.

9 67. The ADA defines a disability as (A) a physical or mental impairment that impairs  
10 one or more major life activities; (B) a record of such an impairment; or (C) being regarded as  
11 having such an impairment. 42 U.S.C. § 12102(1). An individual is regarded as having such an  
12 impairment if they are subjected to an action prohibited under the ADA “because of an actual or  
13 perceived physical or mental impairment whether or not the impairment limits or is perceived to  
14 limit a major life activity.” 42 U.S.C. § 12102(1)(C).

15 68. At all relevant times, Union Pacific regarded Plaintiffs as having an impairment  
16 and, therefore, Plaintiffs were individuals with disabilities under the ADA.

17 69. At all relevant times, Plaintiffs had the requisite skill, experience, education, and  
18 other job-related requirements of their positions, and were therefore qualified individuals under  
19 the ADA.

20 70. At all relevant times, Plaintiffs could perform the essential functions of their  
21 positions, with or without reasonable accommodation.

22 71. Section 12112(a) of the ADA prohibits employers from “discriminat[ing] against  
23 a qualified individual on the basis of disability in regard to job application procedures, the hiring,  
24 advancement, or discharge of employees, employee compensation, job training, and other terms,

1 conditions, and privileges of employment.”

2       72. Discriminating against a qualified individual on the basis of disability under  
3 Section 12112(a) includes, among other things, “using qualification standards, employment tests  
4 or other selection criteria that screen out . . . an individual with a disability . . . unless the standard,  
5 test or other selection criteria, as used by the covered entity, is shown to be job-related for the  
6 position and is consistent with business necessity.” 42 U.S.C. § 12112(b)(6).  
7

8       73. Union Pacific discriminated against Plaintiffs on the basis of real or perceived  
9 disabilities in one or more of the following ways:

- 10       a. Removing each Plaintiff from service and issuing work restrictions on the basis  
11       of each Plaintiff’s disability;
- 12       b. Failing to utilize alternate clinical tests to the Ishihara Test to determine whether  
13       Plaintiffs can effectively read and interpret railroad signals;
- 14       c. Using a field test that that does not assess whether Plaintiffs can effectively read  
15       and interpret railroad signals;
- 16       d. Failing to otherwise assess whether Plaintiffs were capable of reading and  
17       interpreting railroad signals; and
- 18       e. Using a Fitness-for-Duty evaluation process that screens out qualified individuals  
19       with disabilities.  
20

21       74. Because Union Pacific violated 42 U.S.C. § 12112, Plaintiffs have suffered and  
22 will continue to suffer loss of income, emotional distress, and other damages in an amount in  
23 excess of \$75,000. Plaintiffs are also entitled to attorneys’ fees and costs incurred in connection  
24 with these claims.

1           75. Union Pacific committed the above-alleged acts with reckless disregard or  
2 deliberate disregard for Plaintiffs' rights and safety. As a result, Plaintiffs are entitled to punitive  
3 damages.

4  
5                                   **COUNT II**  
6                                   ***VIOLATION OF THE ADA***  
7                                   ***DISABILITY DISCRIMINATION – DISPARATE IMPACT***

8           76. Plaintiffs incorporate the foregoing paragraphs by reference.

9           77. Plaintiffs are qualified individuals with disabilities within the meaning of the  
10 ADA.

11           78. Discriminating against a qualified individual on the basis of disability includes  
12 “using qualification standards, employment tests or other selection criteria that screen out or tend  
13 to screen out an individual with a disability or a class of individuals with disabilities unless the  
14 standard, test or other selection criteria, as used by the covered entity, is shown to be job-related  
15 for the position in question and is consistent with business necessity[.]” 42 U.S.C. § 12112(b)(6).

16           79. Discriminating against a qualified individual on the basis of disability also  
17 includes “utilizing standards, criteria, or methods of administration . . . that have the effect of  
18 discrimination on the basis of disability.” 42 U.S.C. § 12112(b)(3).

19           80. Union Pacific discriminated against Plaintiffs on the basis of disability in one or  
20 more of the following ways:

- 21           a. Union Pacific's Fitness-for-Duty policies, including its use of the Light Cannon  
22 test, disproportionately and adversely impact qualified individuals with  
23 disabilities;
- 24           b. Union Pacific uses qualification standards that screen out or tend to screen out

1 qualified individuals with disabilities; and

2 c. Union Pacific uses a Fitness-for-Duty evaluation process that screens out or tends  
3 to screen out qualified individuals with disabilities.

4  
5 81. Union Pacific cannot show that such qualifications standards are job-related and  
6 consistent with business necessity.

7 82. Because Union Pacific violated 42 U.S.C. § 12112, Plaintiffs have suffered and  
8 will continue to suffer loss of income, emotional distress, and other damages in an amount in  
9 excess of \$75,000. Plaintiffs are also entitled to attorneys' fees and costs incurred in connection  
10 with these claims.

11 83. Union Pacific committed the above-alleged acts with reckless disregard or  
12 deliberate disregard for Plaintiffs' rights and safety. As a result, Plaintiffs are entitled to punitive  
13 damages.

14  
15 **COUNT III**  
16 ***VIOLATION OF THE ADA***  
17 ***FAILURE TO ACCOMMODATE***

18 84. Plaintiffs incorporate the foregoing paragraphs by reference.

19 85. Plaintiffs are qualified individuals with disabilities within the meaning of the  
20 ADA.

21 86. Discriminating against a qualified individual with a disability includes "not  
22 making reasonable accommodations to the known physical or mental limitations of the otherwise  
23 qualified individual with a disability who is an applicant or employee, unless such covered entity  
24 can demonstrate that the accommodation would impose an undue hardship on the operation of  
the business of such covered entity[.]" 42 U.S.C. § 12112(b)(5)(A).



1           87.     Union Pacific discriminated against Plaintiffs by failing to provide Plaintiffs with  
2 reasonable accommodation.

3           88.     Because Union Pacific violated 42 U.S.C. § 12112, Plaintiffs have suffered and  
4 will continue to suffer loss of income, emotional distress, and other damages in an amount in  
5 excess of \$75,000. Plaintiffs are also entitled to attorneys' fees and costs incurred in connection  
6 with these claims.

7           89.     Union Pacific committed the above-alleged acts with reckless disregard or  
8 deliberate disregard for Plaintiffs' rights and safety. As a result, Plaintiffs are entitled to punitive  
9 damages.  
10

11                                   **PRAYER FOR RELIEF**

12           **WHEREFORE, Plaintiffs pray for judgment against Union Pacific as follows:**

- 13           1.     That the practices of Union Pacific complained of herein be determined and  
14 adjudged to constitute violations of the ADA;
- 15           2.     An injunction against Union Pacific and its directors, officers, owners, agents,  
16 successors, employees and representatives, and any and all persons acting in concert with  
17 them, from engaging in each of the unlawful practices, policies, customs, and usages set  
18 forth herein;
- 19           3.     For an award of damages arising from loss of past and future income, emotional  
20 distress, and other compensatory damages in excess of \$75,000.00 for each of the  
21 Plaintiffs;
- 22           4.     Pre-judgment interest, as provided by law;
- 23           5.     For Plaintiffs' costs, disbursements and attorneys' fees pursuant to law;
- 24

6. For an award of punitive damages;
7. For all relief available under the ADA;
8. For such other and further relief available by statute; and
9. For such other and further relief as the Court deems just and equitable.

**DEMAND FOR JURY TRIAL**

Plaintiff demands a trial by jury of all issues so triable pursuant to Rule 38 of the Federal Rules of Civil Procedure.

Date: January 19, 2021

**HILDEBRAND, McLEOD & NELSON LLP**

s/ Anthony S. Petru  
Anthony S. Petru (CA # 91399)  
petru@hmnlaw.com  
Gavin S. Barney (CA # 321880)  
barney@hmnlaw.com  
350 Frank H. Ogawa Plaza, 4<sup>th</sup> Floor  
Oakland, California 94612  
Telephone: (510) 451-6732  
Fax: (510) 564-7023

**NICHOLS KASTER, PLLP**

s/ James H. Kaster  
James H. Kaster (CA #248949)  
kaster@nka.com  
Lucas J. Kaster (CA # 291102)  
lkaster@nka.com  
80 South Eighth Street  
4600 IDS Center  
Minneapolis, Minnesota 55402-2242  
Telephone: (612) 256-3200  
Fax: (612) 338-4878

**ATTORNEYS FOR PLAINTIFF**

*\* pro hac vice application forthcomin*